

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.,

: Plaintiff, : 07 Civ. 3219 (LTS) (DF)

: -against- : **AMENDED ORDER**

:
EMINENT, INC., et al.,

: Defendants.

X

DEBRA FREEMAN, United States Magistrate Judge:

The Court has received a letter application from counsel for plaintiff GMA Accessories, Inc. ("GMA"), dated April 2, 2008, requesting that the Court issue an Order pursuant to Fed. R. Civ. P. 4(f)(3), permitting GMA to effect service of the Third Amended Complaint upon defendants Jonathan Solnicki and Charlotte Solnicki via e-mail. Having considered GMA's application and the authority cited therein, the application is denied.

The Court notes that both of the cases cited by GMA in support of its application involved service in countries that were not signatories to the Hague Convention on service, *see Rio Properties, Inc. v. Rio International Interlink*, 284 F.3d 1007 (9th Cir. 2002) (Costa Rica); *GMA Accessories, Inc. v. Megatoys, Inc.*, No. 01 Civ. 12743 (LAK), 2003 WL 193507 (S.D.N.Y. Jan. 14, 2003) (Taiwan), whereas this case would involve service in Argentina, which is a Hague Convention signatory. Further, even if the Court were not prohibited under Fed. R. Civ. P. 4(f)(3) from permitting e-mail service in this circumstance, *cf. Rio*, 284 F.3d at 1015 n.4, GMA's application presents no compelling reason why, in this case, the dictates of an applicable international convention should be disregarded and alternate service ordered, *see Ryan v. Brunswick Corp.*, No. 02-CV-0133E(F), 2002 WL 1628933, at *2 (W.D.N.Y. May 13, 2002)

(noting that, prior to making an application under Rule 4(f)(3), party should make a reasonable attempt to effectuate service by conventional means and demonstrate why court intervention is necessary).

Dated: New York, New York
April 8, 2008

SO ORDERED



DEBRA FREEMAN
United States Magistrate Judge

Copies to:

John P. Bostany, Esq.
The Bostany Law Firm
40 Wall Street
New York, NY 10005

Robert J. Grand, Esq.
Ira S. Sacks, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022